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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,139	03/25/2004	John A. Eaton	50121-00003	7709
25231	7590	03/05/2007	EXAMINER	
MARSH, FISCHMANN & BREYFOGLE LLP			WEAVER, SUE A	
3151 SOUTH VAUGHN WAY			ART UNIT	PAPER NUMBER
SUITE 411			3781	
AURORA, CO 80014				
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	03/05/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,139	EATON ET AL.	
	Examiner	Art Unit	
	Sue A. Weaver	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 December 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-36 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 13-24, 26, 27 and 32 is/are allowed.
 6) Claim(s) 1,3-12, 25, 28-31 and 33-36 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-12, 25, 28-31 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the amendment filed 12/8/06 applicants amended the claims in the first line to change beverage container to bottle. However it appears that the change to bottle wasn't carried out throughout the claims.

Claim 1 recites the limitation "the container" in line 3, 6 and 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the container" in lines 2 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the container" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the beverage container" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitation "the container" in line 2. There is insufficient antecedent basis for this limitation in the claim.

It isn't clear what applicants mean by the expression "wherein within at least a portion of the crown portion a cross sectional area of the wall of said container," in claim 36. It appears as though something was left out.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoonover et al '314.

Schoonover et al teach a container that could be sued for water storage and includes a bottom wall with a recess at 60 and four sidewalls with grooves at 60 to aid in handling the container. Note that the shape of the sidewall grooves are such that they slope toward the bottom wall and that the opening at the top is threaded.

3. Claims 1, 4, 28,31 and 33-36, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Skolnicki et al '792.

Skolnicki et al teach a bottle with a bottom wall having a recess, note 60 for example for gripping and four side walls with a gripping groove at 70A which slopes down toward the bottom wall. Note the opening at the top with a cap and the sloping of the sidewalls toward the top.

4. Claims 13-24, 26, 27 and 32 are still allowed while claim 2 has been canceled.
5. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information

Art Unit: 3781

and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____.
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (5:30-4).

Art Unit: 3781

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SW

Sue A Weaver
SUE A. WEAVER
PRIMARY EXAMINER
GROUP 3700